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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,789	09/23/2003	Yong D. Zhao	P-10040.00	4098

27581 7590 12/20/2006  
MEDTRONIC, INC.  
710 MEDTRONIC PARK  
MINNEAPOLIS, MN 55432-9924

EXAMINER
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ALTER, ALYSSA M

ART UNIT	PAPER NUMBER
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3762

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/20/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/668,789

Applicant(s)

ZHAO ET AL.

Examiner

Alyssa M. Alter

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 17, 2006 has been entered.

### ***Response to Arguments***

Applicant's arguments filed July 17, 2006 have been fully considered but they are moot in view of the new ground(s) of rejection with Dutcher (US 4,381,013), the prior art previously made of record and discussed on the next page.

The Applicant argues that Dutcher (US 4,381,013) does not disclose "J" shaped stylet with a taper zone extending from within the curved intermediate segment distal segment since the intermediate zone has a uniform diameter.

However, in order for there to be a taper "zone" within the system, there must be a zone that by comparison that does not taper. The examiner considers that zone to be the proximal end to a point in the middle of the curved segment. The "taper zone" is considered to start distal to that point in the middle of the curved segment to the distal point of the lead, since the lead decreases in diameter.

The Applicant appears to be only considering the taper zone to only be the portion that has a uniform decrease in the diameter, and thus a gradual taper. On the

Art Unit: 3762

contrary, the examiner considers the taper zone to not be uniformly gradual, as seen in the replica of figure 6 below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

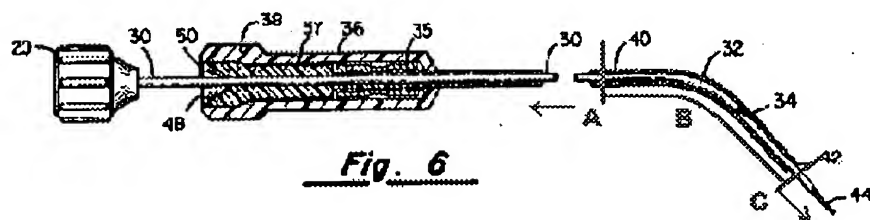
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4, 8-12, 16-20 and 24-27 stand rejected under 35 U.S.C. 102(b) as being anticipated by Dutcher (US 4,381,013) for reasons previously made of record and restated below.

The Applicant argues that Dutcher (US 4,381,013) does not disclose "J" shaped stylet with a taper zone. However, Dutcher does in fact disclose a taper zone extending within the curved intermediate segment.

Dutcher in figure 6 displays a two-piece stylet in a "J" shape (please see below).



The examiner considers the claimed substantially straight proximal segment to be from the proximal end to point A, the curved intermediate segment is defined by

segment B (between points A and C) and point C to the tip is considered to be the substantially straight distal segment.

As displayed above in the replica of figure 6, the taper zone, originates in the curved section and decreases or tapers, such as at point 42 and further in the substantially straight distal segment beyond point C. Therefore, Dutcher does disclose a taper zone extending from within the curved intermediate segment.

It is further noted that the claim does not state that the taper is in a curved portion of the curved segment

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 5-7, 13-15, 21-23 and 28-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dutcher (US 4,381,013) in view of Hartley et al. (US 20040073141 A1) for reasons previously made of record.

Since Dutcher does disclose a tapered zone extending within the curved intermediate segment, the arguments in regards to claims 5-7, 13-15, 21-23 and 28-30 are considered moot.

The previous rejection made of record in the Office Action dated 9/1/05:

Art Unit: 3762

Dutcher discloses the claimed invention except for the degree of the curve being approximately 180 degrees, approximately 210 degrees or some value therebetween. Hartley et al. teaches that it is known to use a curve in the range of 140 to 200 degrees as set forth on page 4, paragraph 68 for navigating within the heart with minimizing damage and irritation to the aortic heart valve. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the curvature as taught by Dutcher with the degree of curvature as taught by Hartley et al., since such a modification would minimize trauma to the vasculature.

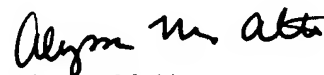
As to claims 5, 7, 13, 15, 21, 23, 28 and 30, the examiner considers 200 degrees to be approximately 210 degrees.

Art Unit: 3762

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alyssa M Alter  
Examiner  
Art Unit 3762



GEORGE R. EVANISKO  
PRIMARY EXAMINER

12/11/6